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DEPARTMENT OF LABOR AND INDUSTRIES

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STATE OF WASHINGTON

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TRANSCRIPT OF PROCEEDINGS

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of

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UNEMPLOYMENT INSURANCE RULES

10

STAKEHOLDER MEETING

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Date and Location

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August 3, 2004	DSHS Region IV Office
Tuesday, 10:05 am	400 Mercer Street, Suite 600

080304h1.txt

Seattle, Washington

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BE IT REMEMBERED, that a Domestic Violence or
Stalking Unemployment Insurance Rules stakeholder meeting
was held at the location, date and time as set forth
above. The Employment Security Department was represented
by CHERYL METCALF, UI Policy & Training Manager; and KAREN
MALO, Program Coordinator. SUSAN HARRIS was also present.

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Reported by:

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H. Milton Vance, CCR, CSR
(License #2219)

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EXCEL COURT REPORTING
16022-17th Avenue Court East
Tacoma, WA 98445-3310
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August 3, 2004 - Seattle

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PROCEEDI NGS

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MS. METCALF: Good morni ng. My name' s Cheryl

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4 Metcalf. I'm the UI policy manager. To my left is Karen
5 Malo who has the lead on this rule-making process, and
6 Susan Harris who is also with our policy unit. And Milton
7 Vance is here to record what we have to say.

8 This is the second meeting we've had on these rules,
9 and I'll give you a little background. The bill was
10 passed in June of '02. It became effective. And we
11 issued a circular that same month giving some direction on
12 how to process these claims for individuals who leave work
13 because of domestic violence.

14 We had our first public hearing on rules in December
15 of '02. And then beginning shortly after that we had a
16 great deal of legislative changes to deal with, and these
17 rules kind of got sidetracked, but we did continue to go
18 with the policy that we had published. And now we're
19 getting back to finalizing the rules. Everyone's gotten a

20 copy of the proposed.

21 We had -- our first meeting we had lots of good
22 input. And as soon as we get the transcript from that
23 meeting and this one, we will consider all comments. And
24 probably the next step will be to make the changes and put
25 them out again as proposed rules and see what comments are

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1 from there, and maybe just go on to a rules hearing. You
2 know, we do have to look at everything first.

3 So here we are. And I'm going to turn it over to
4 Karen.

5 MS. MALO: So what we're here to discuss is three

6 WAC's that we're proposing that we amend -- or two that we
7 amend and two that -- one that we amend, two that we have
8 new sections on. And the law is 50.20.050 (b)(iv), and
9 (b) says "An individual shall not be considered to have
10 left work voluntarily without good cause when ... the
11 separation was necessary to protect the claimant or the
12 claimant's immediate family members from domestic
13 violence, as defined in RCW 26.50.010, or stalking, as
14 defined in RCW 9A.46"

15 The first WAC that we're proposing that we make
16 changes to is WAC 192-150. And the individual has good
17 cause to leave work when the separation's necessary to
18 protect themselves. And again, we've cited RCW 26.50
19 which is the domestic violence prevention. It's title 26
20 and its definitions.

21 And stalking as defined in 9A is criminal code for
22 stalking -- Washington Criminal Code "stalking." And we

23 have a narrow definition. We used the Employment Security
24 definition WAC 192-150-055(3)(b) to define "immediate
25 family." And this is the -- who is the victim maybe. And

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1 it's a narrow definition of "immediate family."

2 And then we have a broader definition of "family or
3 household member," and we took that from title 26.50.010.

4 So we've identified who the perpetrator could be
5 using that law.

6 Stalking can be committed against you or your family
7 by any person. So we've identified that. The
8 individual's not required to exhaust reasonable

9 alternatives prior to leaving work. Most claimants are
10 required to attempt to preserve their job prior to leaving
11 in order to establish good cause. We've stated that the
12 amount of notice -- the claimant's not penalized for
13 failing to give notice or giving more than, you know,
14 several weeks notice, they're not penalized.

15 We've also identified or we used a new definition of
16 "necessary" that is right now in the final stages of being
17 adopted. And it's the one that we use for other job
18 separations.

19 Do you want me to read that? It's there on your
20 paper.

21 And then we have definitions that we have included
22 for ease of looking up rather than have the staff person
23 have to go on site and the other titles in order to find
24 out what "domestic violence" is or what "stalking" is.

25 So would you like to go over those? I just want to

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1 know if you want to go through those or if you want what
2 we've included here if those are fine with you.

3 MS. HUANG: Oh, no. I mean, we -- we have some -- I
4 wasn't sure what you were referring to when you were
5 talking about the definitions or --

6 MS. MALO: On number 3.

7 MS. HUANG: Right. Or -- I mean, or the whole
8 section that --

9 MS. METCALF: One thing that I forgot -- and I
10 apologize -- was to ask you all to when you make comment

11 to say your name for Milton. I'm sorry.

12 MS. HUANG: I'm Grace Huang, public policy
13 coordinator for the Washington State Coalition Against
14 Domestic Violence. And I do have -- we have comments
15 regarding the new section in sub (2) of 192-150.

16 MS. MALO: Okay.

17 MS. HUANG: But I wasn't sure if you were going
18 through all of it first or --

19 MS. MALO: I was just going to go through that new
20 section of that WAC and then let you comment or ask for
21 comment.

22 MS. HUANG: Okay.

23 MS. MALO: But you can certainly comment now if you'd
24 like.

25 MS. HUANG: Well -- I mean, whatever's easier.

1 MS. MALO: Sure.

2 MS. HUANG: I just was going through -- okay.

3 Well, as I said, I'm Grace Huang, and I'm with the
4 Washington State Coalition Against Domestic Violence. And
5 if you don't already know, the coalition, we've got 64
6 member programs statewide, domestic violence shelters and
7 advocacy programs around the state. And, you know, we
8 work regularly with domestic violence survivors who have
9 faced all sorts of different circumstances in their life
10 and in dealing with domestic violence and stalking as
11 well. And so it's, you know, from that framework that we
12 speak with a lot of experience with working with very
13 different experiences that battered women and children

14 face.

15 And our -- you know, we generally support what you
16 have included in the new section. We have some concerns
17 with subsection (2). And I believe that Pam Crone may
18 have articulated those earlier in the other hearing, but I
19 wanted to add some additional comments.

20 You know, this really comes from the framework of our
21 expertise in working with very different situations that
22 battered women face. And we are concerned that the way
23 that the proposed rule is written that, you know,
24 individuals who are not experienced in dealing with
25 domestic violence themselves are going to be the ones that

1 adjudicate making these decisions. And what we've learned
2 is that domestic violence survivors -- actually the
3 research shows that domestic violence survivors often
4 leave even though none of us -- you know, the popular
5 notion is that domestic violence survivors don't or, you
6 know, victims don't leave their abusive situation. But
7 the research shows that they often do, but it may take
8 several times for victims to leave. And it really is
9 about, you know, a whole series of -- or a whole variety
10 of circumstances that make it possible for victims to
11 leave abusive situations. And I'm concerned that sub (a)
12 and sub (b) both -- they don't really reflect that
13 individual survivors have to make, you know, choices about
14 when it's safe for them to leave and when is the most
15 appropriate time for them to leave.

16 The first one, in sub (a) we are concerned that --
17 oh, excuse me -- okay, we are concerned about the language
18 in sub (a) about domestic violence or stalking being the
19 primary reason you left work. And the thing that is
20 complicated about domestic violence is that there's a
21 whole series of factors that will -- that factor into
22 whether domestic violence survivors leave. Their
23 relationships or work or make changes in their lives. And
24 part of it has to do with safety. A lot of it has to do
25 with economics, whether or not it's feasible for somebody

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1 to make those changes and be able to not have to return to

2 their abuser.

3 And so the thing about it is often that's something
4 that's very subjective. And the survivor isn't
5 necessarily going to be able to articulate all the things
6 that they have considered in making that decision.

7 So we are concerned. And we would prefer that the
8 primary language not be included in the rule.

9 In addition, in subsection (b), and this one is
10 something that we are also very concerned about. And I
11 recognize that my understanding is this language comes
12 from another rule related to disability or illness. And I
13 think that those -- it's a very different circumstance,
14 domestic violence, that is, than disability or illness,
15 primarily because there's an abuser, another individual
16 involved in all of this, which -- that only the victim
17 knows about in terms of how dangerous this person is, what
18 he's likely to do in that circumstance. And so in terms

19 of -- you know, as an outside person looking into a
20 relationship, it might -- may or may not be reasonable for
21 somebody who's not living with this abuser, they might not
22 think that this person is being reasonable or not being
23 reasonable in terms of when she decides that she wants --
24 she needs to leave.

25 And so we know from a lot of studies that victims of

1 domestic violence, they will leave based on a whole
2 variety of factors. And part of it may be just based on
3 what knowledge they have of other resources, whether or
4 not they have, you know, support systems, whether or not

5 they think that they're going to have financial resources
6 and, you know, economic or -- unemployment security is
7 closely tied to that -- whether or not they think that
8 they're going to be safe, whether or not their experience
9 with law enforcement has been effective in the past, a
10 whole series of things.

11 And so, you know, I'm really concerned that an
12 adjudicator that doesn't know this abuser and doesn't know
13 that whole series of factors in that person's life is
14 going to be making a decision about whether this victim is
15 reasonable in leaving or not. And so we are concerned
16 about the language about a reasonably prudent person in
17 the rule.

18 And then finally on (c), we -- I mean, I don't think
19 it does one thing, you know, something one way or another.
20 But I just am concerned that the language actually doesn't

21 really make sense in terms of, I mean, whether separation
22 meets the definition of domestic violence. It's not
23 really the separation itself that meets the definition,
24 but the reason for the separation.

25 And so -- I mean, we thought that was actually

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1 unnecessary language. But --

2 And that's my quick I guess summary of our concerns
3 with that first 192-150.

4 MS. PETERSEN: My name's Roberta Petersen, and I work
5 at New Beginnings as a community advocate.

6 And yeah, my biggest concerns are with where it says

7 "necessary." And who's going to be the one assessing
8 whether it was necessary for this woman to leave this
9 relationship or not? Do they understand domestic
10 violence? Do they understand what's been happening in
11 this woman's life? You know, a lot of people don't
12 recognize certain things as domestic violence. And so if
13 this person is not educated properly in domestic violence,
14 they could do a lot of damage.

15 MS. MALO: Thank you.

16 Going on to the next WAC, it's 192-170. It's
17 suitable work factors. And it's a new section that we're
18 proposing.

19 And what we've done is added about halfway down, a
20 little bit further, "Suitability of work must also include
21 consideration of your need to address the physical,
22 psychological, legal and other effects of domestic
23 violence or stalking. A job is not considered suitable

24 ... when the job would have required you to be available
25 on a day or at a specific time that conflicts with your

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1 need to address the effects of the domestic violence or
2 stalking."

3 And (2) is "To be considered available for suitable
4 work, you must demonstrate an attachment to the labor
5 market and must be available for work."

6 And that's what we've added to that new section that
7 we've added to the WAC.

8 Do you have any concerns with that one --

9 MS. HUANG: No.

10 MS. MALO: -- or comment?

11 MS. HUANG: My only comment is we like the language
12 that you've included and think it does recognize the
13 different factors that face domestic violence survivors.
14 So we are supportive of the language that's been proposed.

15 MS. CRONE: Pam Crone from the Northwest Women's Law
16 Center today -- wearing that hat.

17 I think we had some discussion at the last hearing
18 around an attachment to the labor market and what that
19 meant and whether this number 2 was even really necessary
20 because all folks who are receiving unemployment benefits
21 must demonstrate an attachment to the labor market and be
22 available for work and thought that it may be unnecessary
23 to include that.

24 MS. MALO: Correct, we did have that discussion.
25 Yeah, thank you.

1 Okay. And the next one, we're amending WAC
2 192-180-010, job search requirements, subsection (d) we've
3 added.

4 Basically we've said that they are not required to
5 make three employer contacts or three in-person activities
6 at the worksource center. They are -- the folks that are
7 allowed benefits under this job separation must make at
8 least one job search contact per week or in-person job
9 search activity. So that's the addition that we've added.

10 And I think that's all we've done. Do you have any
11 concern with that one?

12 MS. HUANG: Yes. This is Grace Huang with the State
13 Coalition again.

14 We think that in (3)(d) that it's more appropriate
15 to, you know, rather than having that last sentence that
16 starts with "however," that perhaps it might be more
17 appropriate to put in language that says that each case
18 should be determined on a case-by-case basis. Because
19 one, you know, job contact may be inappropriate for one
20 individual, but it may be -- actually another individual
21 may be able to do all the job contacts that everybody else
22 has to do. And I think it just is really individualized
23 in domestic violence cases. And so the prescription that
24 it be one contact when domestic violence situations are so
25 different is -- I think it's a little, you know,

1 restrictive. And so depending upon the individual
2 circumstances it might be more appropriate to look at
3 cases on a case-by-case basis.

4 MS. PETERSEN: Roberta Petersen at New Beginnings.

5 My concern in working with women is that depending on
6 the situation they've been in and the experiences that
7 they've faced, for some of them they might need to go to
8 counseling, support groups. They might need to find
9 adequate day care that's safe for their children. And so
10 it needs to be on a case-by-case basis depending on where
11 that woman is. Some women might go in there and face
12 everything in the beginning and be able to do three job
13 searches, and other women might need to do other things to
14 make themselves ready and available for work. So I think

15 it really needs to be on a case-to-case basis.

16 MS. MALO: Thank you. Any other comments?

17 MS. METCALF: First, let me tell you that you -- I've
18 forgotten the date because I didn't write it down. Is it
19 August 20th?

20 MS. HARRIS: August 20th.

21 MS. METCALF: August 20th to submit written comments.

22 And we'll put all the information, and it will go to

23 Karen: fax, e-mail, written, letter for. And then we'll

24 get the written comments, the transcripts from the two

25 meetings, and Karen will compile everything. And each and

1 every comment will be considered.

2 If there are some that are not -- we're not able to
3 put in, we will let you know why. And then she'll rework
4 the rules based on all the comments, and we'll go from
5 there. Then we'll be back in touch. You've signed in,
6 and we'll be back in touch with you and let you know the
7 next step.

8 And like I said before, most likely it will go to a
9 rule form based on the comments we've had rather than
10 another round of meetings.

11 The next one will be the actual rules hearing. And
12 that may not be. You know, if we see that there's a lot
13 of controversy, then we'll go back into a meeting form
14 prior to formal hearing.

15 So that should be -- probably you'll need a few weeks
16 to consider all the comments. So we probably won't hear

17 anything before September I'm sure. But we will keep you
18 posted, and we'll keep this moving along to get these
19 adopted.

20 And I want to thank everybody for coming. If you
21 have questions or anything between now and when you want
22 to submit your written comments, please feel free to get
23 in touch with Karen. Or you can call me. And I, of
24 course, didn't bring my cards. But I'm happy to take any
25 calls also.

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1 So thank you.

2 And, you know, it's important to get these rules in.

3 But we've been pretty comfortable with the way that these
4 have been adjudicated thus far. And so based on the press
5 of the new legislation, these were put on hold. And now
6 we've gotten through the new legislation successfully, and
7 so now we're back on track.

8 So thank you all very much.

9 (Whereupon, at 10:30 a.m.,
10 proceedings adjourned.)

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C E R T I F I C A T E

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STATE OF WASHINGTON)

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County of Pierce)

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6 I, H. Milton Vance, a Certified Court Reporter in and
7 for the State of Washington, do hereby certify:

8 That the foregoing transcript of proceedings was
9 taken stenographically before me and transcribed under my
10 direction; that the transcript is an accurate transcript
11 of the proceedings insofar as proceedings were audible,
clear and intelligible; that the proceedings and resultant
foregoing transcript were done and completed to the best
of my abilities for the conditions present at the time of
the proceedings;

12 That I am not a relative, employee, attorney or
13 counsel of any party in this matter, and that I am not
financially interested in said matter or the outcome
thereof;

14 IN WITNESS WHEREOF, I have hereunto set my hand on
15 this 18th day of August, 2004, at Tacoma,
16 Washington.

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18 _____
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